

Senate Bill No. 422

CHAPTER 99

An act to amend Sections 35100, 35101, 35103, 35120, 35152, and 35153 of, to amend the heading of Division 26 (commencing with Section 35100) of, and to add Section 35122 to, the Public Resources Code, relating to the Santa Clara Valley Open-Space Authority.

[Approved by Governor July 15, 2015. Filed with
Secretary of State July 15, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 422, Monning. Santa Clara Valley Open-Space Authority.

Existing law creates the Santa Clara County Open-Space Authority, and prescribes the jurisdiction and functions and duties of the authority. Existing law authorizes the authority, among other things, to acquire, hold, and dispose of real and personal property, within the authority's jurisdiction, necessary to the full exercise of its powers. Existing law further authorizes the authority to take by eminent domain any property necessary or convenient to accomplish the purposes of the authority, with the exception of lands in active ranching, lands in agricultural production, and lands in timberland production zones that are not threatened by imminent conversion to developed uses. Existing law provides that the maximum jurisdiction of the authority shall include all areas within the county, as provided.

This bill would authorize the authority to acquire, but not to take by eminent domain, interests in real property that are without the authority's jurisdiction, necessary to the full exercise of its powers. The bill would also authorize the authority's boundaries to be altered by the annexation of contiguous territory, in the unincorporated area of a neighboring county, as provided. The bill would change the name of the authority to the Santa Clara Valley Open-Space Authority and make conforming changes.

The people of the State of California do enact as follows:

SECTION 1. The heading of Division 26 (commencing with Section 35100) of the Public Resources Code is amended to read:

DIVISION 26. SANTA CLARA VALLEY OPEN-SPACE AUTHORITY

SEC. 2. Section 35100 of the Public Resources Code is amended to read: 35100. This division shall be known and may be cited as the Santa Clara

Valley Open-Space Authority Act.

SEC. 3. Section 35101 of the Public Resources Code is amended to read:

35101. The Legislature hereby finds and declares all of the following:

(a) In Santa Clara County, open-space preservation and creation of a greenbelt are immediate high priorities needed to counter the continuing and serious conversion of these lands to urban uses, to preserve the quality of life in the county, and to encourage agricultural activities.

(b) In order to deal in an expeditious manner with the current serious loss of these properties, the county needs to develop and implement a local funding program involving properties occupied for urban purposes which give rise to the need for open-space preservation that goes significantly beyond current existing funding that is not adequate to resolve these losses.

(c) It is in the public interest to create the Santa Clara Valley Open-Space Authority so that local open-space preservation and greenbelting decisions can be implemented in a timely manner to provide for the acquisition and maintenance of these properties.

(d) All persons owning developed parcels enjoy the privilege of using, and benefit from, the availability of open space.

SEC. 4. Section 35103 of the Public Resources Code is amended to read:

35103. "Authority" means the Santa Clara Valley Open-Space Authority created pursuant to this division in the County of Santa Clara.

SEC. 5. Section 35120 of the Public Resources Code is amended to read:

35120. The Santa Clara Valley Open-Space Authority is hereby created on February 1, 1993. The maximum jurisdiction of the authority shall include all areas within the county, except those areas of the county presently within the boundaries, including the sphere of influence, of the Midpeninsula Regional Open-Space District. Each city situated within the maximum jurisdictional boundaries shall pass a resolution stating its intent to be included within the authority's jurisdiction by January 15, 1993. These resolutions shall be transmitted to the board of supervisors. A city that fails to pass the resolution or that formally states its intent to not participate shall be excluded from the authority's jurisdiction. The creation of the authority is not subject to review by the Santa Clara County Local Agency Formation Commission.

SEC. 6. Section 35122 is added to the Public Resources Code, to read:

35122. Notwithstanding Section 35120, after the establishment of the authority's boundaries, the boundaries of the authority may be altered by the annexation of contiguous territory, in the unincorporated area of a neighboring county, pursuant to the annexation process in the Cortese-Knox-Hertzberg Local Government Reorganizing Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code). The board of supervisors of the neighboring county shall pass a resolution stating its intent to be included within the authority's jurisdiction before any territory in that county may be annexed to the authority.

SEC. 7. Section 35152 of the Public Resources Code is amended to read:

35152. (a) The authority may take by grant, appropriation, purchase, gift, devise, condemnation, or lease, and may hold, use, enjoy, and lease or dispose of real and personal property of every kind, and rights in real and personal property, within or without the authority's jurisdiction, necessary

to the full exercise of its powers. The authority may accept and hold open-space easements and purchase development credits wherever the authority may acquire real property.

(b) Priority for open-space acquisition should be focused on those lands closest, most accessible, and visible to the urban area. The remote ranchlands east of the westernmost ridgeline of the Diablo Range shall be acquired as permanent open space only through conservation easement purchases or the granting of lands or conservation easements by owners to the authority.

(c) Lands subject to the grant of an open-space easement executed and accepted by the authority in accordance with this division are enforceably restricted within the meaning of Section 8 of Article XIII of the California Constitution. An easement or other interest in real property may be dedicated for open-space purposes by the adoption of a resolution by the governing board, and any interest so dedicated may be conveyed only as provided in this section.

(d) The authority shall not validly convey an interest in any real property actually dedicated and used for open-space purposes without the consent of a majority of the voters of the authority voting at a special election called by the governing board and held for that purpose. Consent need not first be obtained for a lease of any real property for a period not exceeding 25 years if that real property remains in open-space or agricultural use for the entire duration of the lease.

SEC. 8. Section 35153 of the Public Resources Code is amended to read:

35153. The authority may exercise the right of eminent domain to take any property necessary or convenient to accomplish the purposes of this division, except that it shall not take lands in active ranching, lands in agricultural production, lands in timberland production zones that are not threatened by imminent conversion to developed uses, or lands without the authority's jurisdiction. Furthermore, the authority shall not acquire any interest in real property by eminent domain unless the real property is contiguous to real property that is already owned by a public agency for open-space use. For purposes of this section, "owned" includes a lease or other contractual commitment to which the public agency is a party, to maintain the property in open-space use for a term of at least 25 years. The right of eminent domain may only be exercised upon the approval of a four-fifths vote of the governing board. If the property owner objects to the acquisition of his or her property by eminent domain, the property owner may, within 30 days of the governing board's vote, file a written objection with the legislative body of the city or county in which the property is located. If the property is located in more than one city or in the county and one or more cities, the property owner shall file his or her objection with the legislative body of the city or county that includes the larger portion of the property. If the property owner files a timely written objection, the legislative body shall consider the objection at a public hearing to be held within 45 days of its receipt. If the legislative body of a city upholds by a two-thirds vote, or the legislative body of a county upholds by a majority vote, the objection by determining that the acquisition is not in the best

interests of the public within the authority's jurisdiction, the authority shall not exercise its right of eminent domain on that property.

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